

APPROVED

CHAPTER

JUN 23 '03

483

BY GOVERNOR

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND THREE

H.P. 702 - L.D. 945

An Act To Facilitate Communication between Prescribers
and Dispensers of Prescription Medication

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA c.1603 is enacted to read:

CHAPTER 1603

CONTROLLED SUBSTANCES PRESCRIPTION MONITORING

§7245. Legislative intent

It is the intent of the Legislature that the prescription monitoring program established pursuant to this chapter serve as a means to promote the public health and welfare and to detect and prevent substance abuse. This chapter is not intended to interfere with the legitimate medical use of controlled substances.

§7246. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Controlled substance. "Controlled substance" means a controlled substance included in schedules II, III or IV of 21 United States Code, Section 812 or 21 Code of Federal Regulations, Section 1308.

2. Dispenser. "Dispenser" means a pharmacist who is licensed or registered under Title 32 or a licensed health care professional with authority to dispense or administer prescription drugs.

3. Fund. "Fund" means the Controlled Substances Prescription Monitoring Program Fund established in section 7247.

4. Office. "Office" means the Department of Behavioral and Developmental Services, Office of Substance Abuse.

5. Prescriber. "Prescriber" means a licensed health care professional with authority to prescribe controlled substances.

6. Prescription monitoring information. "Prescription monitoring information" means information submitted to and maintained by the program.

7. Program. "Program" means the Controlled Substances Prescription Monitoring Program established under section 7248.

\$7247. Controlled Substances Prescription Monitoring Program Fund

The Controlled Substances Prescription Monitoring Program Fund is established within the office to be used by the director of the office to fund or assist in funding the program. Any balance in the fund does not lapse but is carried forward to be expended for the same purposes in succeeding fiscal years. The fund must be deposited with and maintained and administered by the office. The office may accept funds into the fund from any source, public or private, including grants or contributions of money or other things of value, that it determines necessary to carry out the purposes of this chapter. Money received by the office to establish and maintain the program must be used for the expenses of administering this chapter. No General Fund appropriation may be made available for the purposes of this chapter.

\$7248. Controlled Substances Prescription Monitoring Program

1. Establishment of monitoring program. Contingent upon the receipt of funds pursuant to section 7247 sufficient to carry out the purposes of this chapter, the Controlled Substances Prescription Monitoring Program is established. No later than January 2, 2004, to implement the program, the office shall establish an electronic system for monitoring any controlled substance that is dispensed to a person in the State by a dispenser.

2. Contract for services. The office may contract with a vendor to establish and maintain the program pursuant to rules adopted by the office.

3. Information available. The program must rapidly provide information in an electronic format to prescribers and dispensers.

§7249. Reporting of prescription monitoring information

1. Information required. Each dispenser shall submit to the office, by electronic means or other format specified in a waiver granted by the office, specific items of information regarding dispensed controlled substances determined by the office from the following list:

A. The dispenser identification number;

B. The date the prescription was filled;

C. The prescription number;

D. Whether the prescription is new or is a refill;

E. The National Drug Code (NDC) for the drug dispensed;

F. The quantity dispensed;

G. The dosage;

H. The patient identification number;

I. The patient name;

J. The patient address;

K. The patient date of birth;

L. The prescriber identification number;

M. The date the prescription was issued by the prescriber;
and

N. The office-issued serial number if the office chooses to establish a serial prescription system.

2. Frequency. Each dispenser shall submit the information required under subsection 1 as frequently as specified by the office.

3. Waiver. The office may grant a waiver of the electronic submission requirement under subsection 1 to any dispenser for good cause, including financial hardship, as determined by the office. The waiver must state the format and frequency with which the dispenser is required to submit the required information.

4. Immunity from liability. A dispenser is immune from liability for disclosure of information if the disclosure was made pursuant to and in accordance with this chapter.

§7250. Access to prescription monitoring information and confidentiality

1. Confidentiality. Except as provided in this section, prescription monitoring information submitted to the office is confidential and is not a public record as defined in Title 1, section 402, subsection 3.

2. Review of information. If the prescription monitoring information surpasses thresholds as established by the office, the office shall notify the prescriber, the dispenser and, if the office determines it to be necessary, the professional licensing entity and provide all relevant prescription monitoring information to those persons and entities through an established letter of notification.

3. Permissible disclosure of information. The office may provide prescription monitoring information for public research, policy or education purposes as long as all information reasonably likely to reveal the patient or other person who is the subject of the information has been removed.

4. Access to information. The following persons may access prescription monitoring information:

A. A prescriber, insofar as the information relates to a patient under the prescriber's care:

B. A dispenser, insofar as the information relates to a customer of the dispenser seeking to have a prescription filled:

C. The executive director, or a board investigator as designated by each board, of the state boards of licensure of podiatric medicine, dentistry, pharmacy, medicine, osteopathy, veterinary medicine, nursing or other boards representing health care disciplines whose licensees are prescribers, as required for an investigation, with reasonable cause:

D. A patient to whom a prescription is written, insofar as the information relates to that patient; and

E. Office personnel or personnel of any vendor or contractor, as necessary for establishing and maintaining the program's electronic system.

5. Purge of information. The office shall purge from the program all information that is more than 6 years old.

§7251. Unlawful acts and penalties

1. Failure to submit information. A dispenser who knowingly fails to submit prescription monitoring information to the office as required by this chapter is subject to discipline by the Maine Board of Pharmacy pursuant to Title 32, chapter 117, subchapter 4 or by the applicable professional licensing entity.

2. Unlawful disclosure or use of information. A person who intentionally or knowingly uses or discloses prescription monitoring information in violation of this chapter, unless otherwise authorized by law, is guilty of a Class C crime.

§7252. Rulemaking

The office may adopt rules necessary to implement the provisions of this chapter. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

BEHAVIORAL AND DEVELOPMENTAL SERVICES, DEPARTMENT OF

Controlled Substances Prescription Monitoring Program Fund

Initiative: Provides a base allocation in the event funds are received to establish and operate the Controlled Substances Prescription Monitoring Program.

Other Special Revenue Funds	2003-04	2004-05
All Other	\$500	\$500
Other Special Revenue Funds Total	\$500	\$500